

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
Implementation of Section 621(a)(1) of)
The Cable Communications Policy Act) **MB Docket No. 05-311**
Of 1984 as Amended by the Cable)
Television Consumer Protection and)
Competition Act of 1992)

**COMMENTS OF AMERICAN ASSOCIATION OF BUSINESS PERSONS
WITH DISABILITIES**

I. INTRODUCTION

The American Association of Business Persons with Disabilities (AABPD) is a national organization dedicated to improving the lives of the millions of Americans with disabilities, with a focus on those individuals working in the business world. According to Cornell University, only 37.5% of working age people with disabilities were employed in 2004.¹ AABPD works tirelessly to foster economic and job opportunities for people with disabilities, who can make enormous contributions to the American workforce.

AABPD is also a member of Consumers for Cable Choice (C4CC),² an alliance of consumer organizations who are committed to the development of a competitive, vibrant cable communications market. We support C4CC's call to reform the local franchising process in order to speed entry by new competitive providers. The approximately 40 consumer groups and their more than 1 million members who comprise C4CC believe increased video competition can create an open, diverse, pro-consumer market for cable subscribers that will stimulate price, choice and service options.

AABPD offers these comments in support of the Commission's efforts to streamline local cable franchising. With franchise reform, we believe competition will thrive in the cable space because there are new providers

¹ 2004 Disability Status Report, Cornell University
http://www.ilr.cornell.edu/ped/disabilitystatistics/StatusReports/2004-pdf/2004-StatusReport_US.pdf?CFID=3588781&CFTOKEN=45200734

² Consumers for Cable Choice, Inc. is a not-for-profit corporation formed under Section 501(c)(4) of the Internal Revenue Code.

with advanced technologies eager to enter the market. The members of AABPD can obtain substantial benefits from competition. People with disabilities have numerous opportunities to expand access to services, employment, and entertainment through advanced broadband and communications services. As business people, particularly working for small businesses, AABPD members can utilize the increased broadband and video deployment that accompanies cable competition to improve their bottom line.

But these benefits will be delayed if the current franchise rules remain in place. The outdated regulations make it extremely difficult for new cable providers to offer services. The franchising process is long and complicated. If competitors are forced to obtain franchises in the tens of thousands of communities nationwide, it could be years or decades before consumers see the benefit of video choice. It could be even longer for AABPD members, as people with disabilities are traditionally underserved in the communications market.

AABPD commends the Commission for conducting this rulemaking proceeding. In these comments, we discuss how current franchises have contributed to the high prices consumers face nationwide, the potential benefits of video competition, and the Commissions legal and statutory authority to intervene in the franchise process. If the Commission acts quickly, cable competition can spread to communities across the country.

II. CURRENT FRANCHISING RULES LEAD TO HIGH PRICES. REFORM CAN PROVIDE CONSUMERS WITH OPPORTUNITIES FOR NEW CHOICES AND SERVICES.

Today, the cable franchise process is slow and cumbersome, making it very difficult for competitive providers to offer new and innovative services. Consumers are faced with high cable prices and very little choice. The Commission itself has cited that cable rates nationwide have skyrocketed by 56.6% since 1996.³ In 2005 alone, there were communities which saw price hikes of over 10 % in 2005. For example, in San Francisco, California a customer who paid \$36.20 for cable three years ago is today paying \$47.93 for the exact same service.⁴

If the current monopoly situation is alleviated through franchise reform and

³ Report on 2004 Cable Industry Prices

⁴ See Testimony of Robert Johnson before Communications, Technology and Interstate Commerce Committee of the National Conference of State Legislatures, November 2005. <http://www.consumers4choice.org/site/DocServer/Johnson.pdf?docID=361>

competitive entry, there are opportunities for consumers to reap tangible benefits. In 2005, the Commission found that in communities with cable competition, average cable rates for basic and expanded services were 15.7% lower than in communities with no competition.⁵ And we are seeing real world examples of these lower prices. Cable competition has emerged in several communities with the deployment of fiber to the home services. In three cities where Verizon's FIOS service is available, the incumbent cable provider lowered their prices to comparable levels with Verizon.⁶

Our members will benefit from increased video competition and broadband deployment in a number of ways. First, people with disabilities have on average lower incomes than non-disabled. Video competition should bring lower cable prices which would be of great help to many disabled Americans. As workers and owners of small businesses across the country, AABPD members could use the greater access to services to help grow their companies, increase productivity, potentially offer new services and products, and reach consumers outside their community. For example, deaf Americans can use the advanced video services for remote sign language interpretation, which can facilitate communications for both business and personal needs.

III. THE COMMISSION CAN AND SHOULD REFORM CABLE FRANCHISING

We recognize that the franchising debate is complicated and involves many interested parties at the federal, state, and local level. These interests should be considered as franchise reform progresses. However, in the near term, the Commission should act to expedite the arrival of cable competition. We believe the FCC has the authority, provided by Congress, to be involved with franchising in order to promote competition and bolster consumer welfare.

As C4CC has stated, members of Congress did not want franchising to be a barrier to competitive entry in the cable marketplace. According to existing cable law, a local franchise authority, "may not unreasonably refuse to award an additional competitive franchise."⁷ Section 621 of the Communications Act of 1934 (as amended) also offered guidelines to promote competition by allowing new providers certain leeway when attempting to enter a market which already contained an entrenched incumbent provider (the traditional cable company). Section 621 included the provision that franchise authorities

⁷ Report on Cable Industry Prices, FCC Rcd 2718, 2721, at 12 (2005).

⁶ Banc of America Securities estimates.

⁷ 47 U.S.C. § 541(a)(1).

must give new providers, “a reasonable period of time to become capable of providing cable service.”

The Commission should use this Section 621 authority to promote a streamlined franchise process that encourages localities to allow new entrants to rapidly enter the market without burdensome requirements. Guidance from the Commission could give local franchise authorities the incentive to allow competitors to enter the market. One possibility for the Commission to consider is a modified franchise arrangement where the provider and the locality begin negotiations, but if an agreement cannot be reached within a reasonable period of time, the franchise process is moved to the state level.

As it considers reform, an important franchise provision that the Commission should protect is the collection of franchise fees. Local communities should still be permitted to collect revenue from existing and new cable providers, in order compensate the community for the use of its rights of way.

IV. CONCLUSION

AABPD urges the Commission to take immediate action to reform the franchise process and provide communities across the country with the benefits that accompany video competition. For too long, consumers have been unable to choose their cable provider. This opportunity to open the market to competition will benefit both consumers and small businesses.

Members of AABPD are among numerous communities that have traditionally been underserved by cable. With competition, there can be new opportunities for people with disabilities and those in the business world to utilize video and broadband services to improve economic conditions and quality of life.

It is time for the Commission to promote competition for cable services by using the authority provided in Section 621. There is a solid legal argument for the Commission setting new, reasonable standards to govern the franchise process and speed entry by new competitive video providers. If the Commission does not act, franchise reform will be a long time coming and consumers will continue to wait for the benefits of today’s technology.

Respectfully submitted,

By: Ira Schoenholtz
President

February 13, 2006